Service Date: October 3, 1986

DEPARTMENT OF PUBLIC SERVICE REGULATION
BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MONTANA

IN THE MATTER of the Application of the BUTTE WATER COMPANY for Authority to Increase Rates and Charges for Water Service to its Butte, Montana Customers.	UTILITY DIVISION DOCKET NO. 86.3.7 ORDER NO. 5194a

APPEARANCES

FOR THE APPLICANT:

Edward A. Murphy, Attorney at Law, Central Square Building, 201 West Main, Missoula, Montana 59802.

FOR THE INTERVENORS:

James C. Paine, Montana Consumer Counsel, 34 West 6th Avenue. Helena, Montana 59620.

Mary Wright, Staff Attorney, Montana Consumer Counsel, 34 West 6th Avenue, Helena, Montana 59620.

FOR THE COMMISSION:

Geralyn Driscoll, Staff Attorney, 2701 Prospect Avenue, Helena, Montana 59620.

BEFORE:

JOHN DRISCOLL, Commissioner & Hearing Examiner
HOWARD ELLIS, Commissioner
TOM MONAHAN, Commissioner BWC

BACKGROUND

1. On March 7, 1986, Butte Water Company (Applicant or BWC) filed

an application with this Commission for authority to increase water rates for its Butte, Montana customers on a permanent basis by approximately 16.08 percent. This constitutes an annual revenue increase of approximately $485,335.

2. Concurrent with its filing for a permanent increase in rates, BWC filed an application for an interim increase in rates of 16.08 percent equaling a revenue increase of approximately $485,335 or 100 percent of the proposed permanent increase.

3. On April 22, 1986, the Commission having considered the data filed with the Applicant's interim application, issued Order No. 5194 granting the Applicant interim rate relief in the amount of $96,858 annually.

4. On July 16, 1986, after proper notice, a hearing was held in the Civic Center Conference Room, 1340 Harrison Avenue, Butte, Montana. For the convenience of the consuming public there was also a night session that commenced at 7 p.m. on July 16, 1986, at the same location. The purpose of the public hearing was to consider the merits of the Applicant's proposed water rate adjustment.

5. On December 18, 1985, Anaconda Minerals Company, BWC's former parent, sold all of BWC's outstanding shares of common stock to Dennis Washington. This sale caused a number of changes in the Applicant's financial information and those changes are being examined for the first time in this Docket.

FINDINGS OF FACT

6. At the public hearing, the Applicant presented the testimony and exhibits of:

James Chelini, President and General Manager, BWC
Tim Bartz, Certified Public Accountant
Don Cox, Certified Public Accountant
C. M. "Skip" Dunfee, Secretary - Treasurer, BWC
Mike Patterson, Vice President and Operations Manager, BWC

7. The Montana Consumer Counsel presented the testimony of one expert witness, Frank Buckley, Rate Analyst, Montana Consumer Counsel, and fifteen public witnesses. The public testimony in this Docket was diverse; some consumers expressed qualified support for the increase while others expressed total opposition. A number of the consumers testified regarding related problems with the system such as low pressure, sprinkling restrictions, sediment and debris in the water, clogging of sand traps and damage to inside facilities resulting from sediment and debris in the water.

8. The year ending December 31, 1985, test year was uncontested and is found by the Commission to be a reasonable period within which to measure the Applicant's utility revenues, expenses and returns for the purpose of determining a fair and reasonable level of rates for water service.

CAPITAL STRUCTURE

9. For rate case presentation, the Applicant in its original application presented the following capital structure in "Data Furnished in Compliance with PSC Minimum Rate Case Requirements,

Statement F."

Description	Amount	Ratio
Debt	$2,000,000	51.67%
Equity	$1,870,653	48.33%
TOTAL	$3,870,653	100.00%

10. Subsequent to the filing of the request for increased rates, Dennis Washington, the sole equity investor in BWC, paid off the $2,000,000 debt obligation, increasing his equity interest in BWC by that amount. With the retirement of this debt obligation, the actual capital structure of BWC consists of 100 percent equity financing.

11. As part of a stipulation entered into between the Applicant and the Montana Consumer Counsel (MCC), the Applicant agreed to the use of a hypothetical capital structure to determine its composite cost of total capital. The Applicant and the MCC agreed to the use of a 50/50 debt equity ratio for purposes of calculating the following capital structure:

Description	Amount	Ratio
Debt	$1,935,327	50.00%
Equity	$1,935,327	50.00%
TOTAL	$3 870 654	100.00%

12. The Applicant and the MCC are of the opinion that the above capital structure is reasonable and compares favorably with that of other regulated utilities.

13. The utility industry is capital intensive and leverage is widely used to finance large plant additions. A debt equity ratio of 50/50 as proposed by the Applicant and the MCC in their stipulation is not an atypical ratio in the utility industry.

14. The Commission finds that use of the stipulated capital

structure as presented in Finding of Fact No. 10 is reasonable in this Docket.

COST OF DEBT

15. The Commission has accepted a hypothetical capital structure in this Docket that assumes a debt component in the Applicant's capital structure; in actuality there is no debt and no contractual obligations have been entered into that would establish an actual cost of debt for the Applicant.

16. Absent contractual obligations that would establish a cost of debt, the Commission must determine a reasonable cost based on reliable information that fairly reflects BWC's cost of attracting this type of capital.

17. In this Docket, the Applicant submitted a hypothetical loan request to various banks in Butte. Two banks indicated the interest rates they would charge to loan BWC money. The banks stated that a loan of $2,000,000 with a term of seven years would have an interest rate of between 10 to 12 percent depending on whether the debt instrument carried a fixed or variable rate of interest. The bank letters stated that if the debt instrument were fixed rate financing then the debt cost would range from 11.5 to 12.0 percent.

18. In their stipulation regarding capital structure and cost of capital, the Applicant and the MCC failed to specifically state their agreed upon cost of debt but, using the information contained in the stipulation, it can be determined that the cost of debt is 11.75%. The stipulated debt cost is the midrange of the fixed rate financing available from local lending

institutions on a loan of $2,000,000 having a term of seven years.

19. As previously indicated, the debt component accepted by the Commission in this Docket is $1,935,327. This magnitude of debt is comparable to the hypothetical loan request amount described in the bank letters wherein the lending institutions indicated a fixed rate cost of between 11.5 and 12.0 percent. The Commission, in this instance, finds it reasonable to accept the stipulated cost of debt, 11.75 percent, since it represents the midrange of fixed rate financing available from local lending institutions.

COST OF EQUITY

20. The Applicant originally requested that the Commission authorize a 14.75% return on equity. As part of the stipulation between the Applicant and the MCC, the Applicant agreed to reduce its requested return on equity from 14.75% to 13.01.

21. The stipulated return on equity was not a contested issue in this Docket and is within the range of the returns recently authorized by the Commission for other utilities under its jurisdiction. Therefore, the stipulated return on equity of 13.0% is accepted by the Commission.

CAPITAL STRUCTURE AND WEIGHTED COST OF TOTAL CAPITAL

22. Applying Findings of Fact contained herein, the Commission finds the following capital structure and composite cost of total capital to be reasonable:

Description	Amount	Ratio	Cost	Weighted Cost
Debt	$1,935,327	50.0%	11.75%	5.88%
Equity	$1,935,327	50.0%	13.00%	6.50%
	$3,870,654	100.0%		12.38%

OPERATING REVENUES

23. The Applicant proposed test period operating revenues Of $3,017,445 that were contested by the MCC. Its expert Witness, Frank Buckley, contended that the test period operating revenues should be increased by $123,890.

24. The MCC proposed four adjustments increasing the Applicant's operating revenues:

l) Inclusion of $11,655 that is the Applicant's "Labor and Supply Profits."

2) Inclusion of $10,551 "Gain on Property Sold", that is gain realized on automobiles sold at auction.

3) Inclusion of $94,754 "Gain on Property Sold", that is a two year amortization of a $189,509 gain from the sale of land.

4) Increase metered revenues by $7,020 to properly reflect revenues for this category at current rates.

25. Proposed Adjustment #1. The first adjustment proposed by the MCC's witness is to include $11,655 of "Labor and Supply Profits" as an operating revenue. It is the witness's contention, based upon BWC's response to PSC data request number 1, that these profits are properly includable as an operating revenue of the

utility. Mr. Buckley stated that these profits represent a partial recovery of expenses paid by the ratepayer. Also, the materials sold by BWC, on which a profit was earned, were included in rate base on which the ratepayer paid a return.

26. MCC concludes that because the ratepayer bears the expense for labor and paid a return on the material, the net profit generated from this activity is an "above the line" item and the benefit should accrue to the ratepayer.

27. The Applicant stated that "Labor and Supply Profits" were included as a "below the line" item because this was consistent with the treatment of this item in prior rate cases before this Commission. The Applicant also contended that these profits were a non-utility revenue and under the uniform system of accounts, were properly a "below the line" item.

28. A review of this Commission's prior orders regarding BWC indicates that the Commission's past treatment of this item has been to reflect it as a "below the line" item. This is the first time the Commission will have specifically addressed the issue of the proper treatment that should be afforded "Labor and Supply Profits". The past treatment afforded the item may or may not have been appropriate, and that determination is being made in this Docket.

29. The Commission does not agree with the Applicant's contention that these profits are non-utility revenues and should be reflected as a "below the line" item. The Applicant's response to PSC data request number one established that the ratepayer was burdened with the expenses for the items that produce this

profit. The ratepayer bore the expense, therefore, the net profit generated from this activity should be included as an operating revenue.

30. The Commission finds that the Applicant's test period operating revenues should be increased by $11, 655, the amount of the net profit generated by "Labor and Supply Profits".

31. Proposed Adjustment #2. Mr. Buckley's prefiled testimony refers the Commission to BWC's response to PSC staff data request number 3. The response to that data request shows BWC realized a gain on the sale of property, specifically automobiles, in the amount of $10,551.

30. Mr. Buckley's position is that this gain should be included as an operating revenue. In his prefiled testimony he states:

> This also represents revenues which should be credited to the ratepayer. In this instance, the ratepayer has been paying both a return on the investment of the stockholder and a return of the investment of the stockholder through depreciation.

33. The Applicant did not refute Mr. Buckley's statements regarding the expense and return burdens placed on the ratepayer by these assets. Because the ratepayer bore the expenses associated with the asset and paid a return on investment, the gain realized should be credited to the ratepayer.

34. The Commission finds that the Applicant's operating revenues should be increased by $10,551 to reflect the gain realized on the sale of property (automobiles).

35. Proposed Adjustment #3. On January 2, 1986, BWC sold land known as the Highland Mining Claim at a gain of $189,508. This transaction is properly considered in this Docket because the sale was a known and measurable change occurring within twelve months of the close of the test year. BWC's predecessor acquired this property between 1885 and 1900 to protect water sources. The original cost of the property is unknown. In 1913, all land transferred to the company from Anaconda Mining Company, including the Highland Mining Claim, was put on the Company's books at $56,956. This amount has been included in rate base through the years. The entire sales price is considered the gain because BWC could not determine what portion of the $56,956 was attributable to the Highland Mining Claim.

36. The regulatory treatment of this gain was an issue in this Docket. The Commission must determine whether the gain on the sale of the land should benefit the equity investor or the ratepayer. If the gain is treated as an "above the line" item, the ratepayer benefits from a lower cost of service because the gain is included in the operating revenue of BWC. If the gain is treated as a "below the line" item, the equity investor benefits because the gain is not considered a portion of operating revenue contributing to the revenue requirement and the company may distribute the gain to shareholders through dividends or reinvest it.

37. The Applicant's position was that the gain should benefit the equity investor not the ratepayer. In support of this position,

BWC made the following statement in response to PSC staff data request No.15:

> Since the property involved consists of land, which has not been depreciated, the rate payers have never been charged for the cost of the property. The rate payers have merely compensated the shareholders for the risk involved in the investment. Therefore, it is our position that the gain on the sale of this property should not be passed through to the rate payers. To do so would amount to confiscation of property without compensation, in violation of state and federal constitutional protections.

38. The MCC's position was that the gain should benefit the ratepayer not the equity investor. In support of this position, MCC witness Buckley made the following statement in his prefiled testimony:

> Response to staff data request #15 also shows additional gains on the sale or disposal of utility properties. This property (land) was purchased and dedicated to or for public use. It has been in rate base. The ratepayers have paid operating expenses and taxes associated with it. They have also paid a return on it. The ratepayer bears the risk of losses associated with utility properties. It is, therefore, appropriate that they receive any gains on these properties when they are sold.

39. In its responses to data requests and its testimony, the Applicant introduced evidence that the expenses associated with this property through the years were minimal. Applicant also stressed that this property was not depreciated. BWC apparently believes that depreciation of an asset should determine whether the ratepayer or equity investor receives the benefit of the gain. Using Applicant's analysis, the ratepayer is entitled to the gain on the sale of depreciable assets because, in that case, the equity investor has recouped the original cost of the asset through depreciation expense allowed in calculating rates. If the

asset is non-depreciable, the equity investor is entitled to the gain because the ratepayer has not returned the original cost of the asset to the equity investor through depreciation, thus, no compensation has been provided the investor for his investment.

40. Using this analysis, gain on sale of land would always benefit the equity investor because land is a non-depreciable asset. The Commission rejects the argument that depreciation should be the determinative factor in deciding whether the ratepayer or the equity investor receives the benefit from the gain on the sale of an asset. Whether the asset is depreciable or non-depreciable, the equity investor receives compensation for the investment through a rate of return on the rate base. In addition while the original cost of a depreciable asset is re turned to the investor through depreciation expense, the original cost of non-depreciable assets is also returned to the investor through recognition of the asset's original cost in the calculation of the gain or loss on the sale. In this case, the Commission is not denying the utility an opportunity to recoup its original cost; BWC is unable to assign an original cost because it has no record of it.

41. MCC argues that whether the ratepayer or the equity investor benefits from the gain should be determined by whether the ratepayer or the equity investor bore the economic burden of the asset during the time it was used by the utility. MCC introduced evidence that in this instance the ratepayer has borne the economic burden through payment of a return on the asset, operating expenses, and taxes associated with the property. MCC argues that the ratepayer has borne the economic burden of the land sold, therefore, the ratepayer is entitled to the economic

benefit arising from the sale of the asset. MCC maintains that it is irrelevant that BWC's evidence indicates the economic burden has been quite small.

42. There is no hard and fast rule to determine who should benefit from the gain. In every rate case, the Commission must balance its obligations to the equity investor to maintain financial integrity, attract necessary capital, and fairly compensate investors with its obligation to the ratepayer to set reasonable rates and protect the relevant existing and foreseeable public interest. The unique facts and circumstances of each rate case influence this balancing. In this case, the Commission finds MCC's method to be an equitable way to determine whether the ratepayer or the equity shareholder should benefit from the gain. As MCC points out in its brief, this test was set out in Democratic Central Committee of District of Columbia et al. v. Washington Metropolitan Area Transit Company, 485 F.2d 786, 806 (1973). As stated in that case:

> We think two accepted principles which have served comparably to effect satisfactory adjustments in other aspects of ratemaking can do equal service here. (footnotes omitted)

43. The two principles referred to are: one, right of gain follows risk of loss and two, economic benefits follows economic burdens.

Right of Gain Follows Risk of Loss.

44. This property was not acquired as an investment, or for

speculation. It was acquired by Butte Water Company sometime between 1885 and 1900 to protect a water source. In other words, it was acquired to provide public utility service to the community of Butte. The exact original investment is not known, but in 1913, $56,956 was put on the company's books and this amount has been included in rate base. The ratepayer has guaranteed BWC an opportunity, to earn a fair return on this land; the ratepayer has sheltered BWC from the risk of loss on this land.

45. As MCC points out in its brief, if an asset acquired by a utility to provide utility service is, or may be, retired at a loss, the loss is often absorbed by the ratepayer through higher rates. If public utilities may expect increased rates to reflect losses that occur, then ratepayers may expect decreased rates to reflect gains that occur.

<u>Benefits Follow Economic Burden</u>.

46. The evidence in this case indicates that the economic burden was small. Expenses, including employee time devoted to the property, have been minimal. Small or large, however, through the years the Butte ratepayer paid for all the expenses associated with this property. In its rate cases, BWC always included these expenses as a ratepayer responsibility, which they were. The ratepayer shouldered the economic burden and is now entitled to the economic benefit.

47. In this case, the Commission finds the $189,508 gain on the sale of the Highland Mining Claim should be credited to the ratepayer by increasing the Applicant's operating revenues.

48. The gain realized on the sale of this land is nonrecurring in nature and traditional ratemaking treatment would dictate that it be amortized. The MCC's witness has proposed that the gain be amortized over a two-year period. The Applicant indicated that if the Commission found the gain should be credited to the ratepayer, then the amortization should be over a period of fifty (50) years, the approximate length of time this asset was included in rate base.

49. The period that the gain should be amortized over is subjective; both the MCC and the Applicant have presented amortization periods that in their opinion are reasonable. Since the Applicant received payment of the purchase price in cash, the full amount of the gain has been available to the Applicant since the date of the sale. The Commission is of the opinion that the amortization period should be as short as possible given the fact that the funds are readily available to the Applicant.

50. The Commission finds that the gain totaling $189,508 should be amortized over a two-year period resulting in an operating revenue increase of $94,754 per year during that period.

51. Proposed adjustment $4. MCC's witness proposed that the metered revenues, under present rates, be increased by $7,020 to properly reflect revenues generated by this category of service. This adjustment was not contested by the Applicant and is accepted by the Commission.

52. Based upon the preceding Findings of Fact, the Commission finds the Applicant's test period operating revenues to be

$3,141,425.

OPERATION AND MAINTENANCE EXPENSE

53. In its responses to PSC staff data requests, the Applicant proposed total test period operation and maintenance expenses of $2,568,088. The test period operation and maintenance expense proposed by the Applicant includes proforma adjustments increasing expenses by $141,850.

54. The MCC proposed two adjustments decreasing the Applicant's proforma operation and maintenance expenses by a total of $24,802. The MCC's expert witness proposed an adjustment decreasing the Applicant's rate case expense for the Butte Division by $23,660. In prefiled testimony, Mr. Buckley stated that he believed that rate case expense should be allocated between the Butte and Anaconda Divisions using a 50/50 allocation until such time as BWC demonstrates another allocation factor is more appropriate.

55. During direct examination, Mr. Cox, BWC's expert witness, stated that he had reviewed BWC's accounting firm's billings for preparation of the Butte and Anaconda Division rate cases. This review indicated that based upon the hours worked to prepare the rate cases, 90 percent were attributable to Butte and 10 percent attributable to Anaconda.

56. The Commission finds, based upon the testimony of Mr. Cox, that the rate case expense should be allocated between BWC's Butte and Anaconda divisions on a 90/10 basis. Using the 90/10

allocation factor, the proforma expenses of the Applicant would be reduced by $1,260.

57. The second adjustment proposed by the MCC's witness reduced the Applicant's proforma wage expense by $1,142. This adjustment, reflecting reduced wage expense, was accepted by the Applicant and the Commission finds the adjustment appropriate.

58. BWC proposed total proforma adjustments increasing its purchased power (electrical) expense by $84,929. The increase in power expense reflects increased kilowatt usage arising from increased pumping in 1986, due to the drought in 1985, and increased electrical rates authorized Montana Power Company (see W.P. 4 of 6, Schedule 38.5.157).

59. The proforma increase in electrical expense totaling $84,929 represents an approximate 21% increase in this expense when compared to the actual expense of $395, 857 incurred during 1985. This magnitude of increase in electrical expense, warranted further investigation and the PSC staff made a number of data requests regarding BWC's historical electrical usage.

60. The major contributing factor affecting BWC's electrical expense is the pumping requirements at the Big Hole and West Side pump stations. During 1985, these pump stations accounted for approximately 98% of BWC's total electrical expense. Since the pumping requirements at these two pump stations are the major contributing factor toward BWC's electrical expense, the PSC staff requested data regarding total gallons pumped and the kilowatt hour usage for the two stations during the period 1982 through 1984.

61. Based upon information submitted by the Applicant in support of its rate application and in response to data requests, the Commission staff prepared a schedule of electrical usage and gallons pumped for the period 1982 through 1985. This schedule was presented during the public hearing:

SCHEDULE 1

ANNUAL ELECTRICAL USAGE AT BUTTE WATER COMPANY PUMP STATIONS

(Source: Responses to Commission staff data requests and Don Cox's workpaper number 11)

1982	
Big Hole Pump Station	7,843,200 kwh
West Side Pump Station	264,800 kwh
Total	8,108,000 kwh
Total Water Pumped	1,962,774,000 Gallons
Customer Count	13,113
1983	
Big Hole Pump Station	8,438,400 kwh
West Side Pump Station 170,800 kwh	
Total	8,609,200 kwh
Total Water Pumped	2,081,735,000 Gallons
Customer Count	13,095
1984	
Big Hole Pump Station	9,286,400 kwh
West Side Pump Station	166,400 kwh
Total	9,452,800 kwh
Total Water Pumped	2,324,586,000 Gallons
Customer Count	12,755
1985	
Big Hole Pump Station	12,579,200 kwh
West Side Pump Station	266,000 kwh
Total	12,845,200 kwh
Total Water Pumped	3,192,450,000 Gallons
Customer Count	12,725

1982 - 1984 Average Water Pumped	2,123,032,000	Gallons
1982 - 1985 Average Water Pumped	2,390,386,000	Gallons
1982 - 1984 Average kwh Usage	8,723,333	kwh
1982 - 1985 Average kwh Usage	9,753,800	kwh

Actual 1985 electrical usage at BWC's pump stations is 47.25% higher than the calculated average for the three year period 1982 - 1984. Actual 1985 electrical usage at BWC's pump stations is 31.7% higher than the calculated average for the four year period 1982 - 1985. 1985 electrical usage is 35.9% higher than the usage in any previous year.

Actual 1985 gallons pumped are 50.4% higher than the average for the period 1982 - 1984. Actual 1985 gallons pumped are 33.6% higher than the average for the period 1982 - 1985. BWC –

62. Schedule 1 shows that BWC's 1985 total gallons pumped and total kilowatt hours of electrical usage are substantially above the historical levels experienced during the period 1982 1984; In response to questioning on the significant increase in gallons pumped and electricity used during 1985, the Company's witnesses stated that the increase was attributable to increased pumping to meet consumer demands during the 1985 drought and its pumping of water from the Big Hole to recharge the Basin Creek Reservoir which had been severely depleted as a result of the drought.

63. Even though the Applicant's 1985 electrical usage was substantially above historical levels, the Applicant made another adjustment increasing this expense. When witnesses were questioned regarding the additional increase in electrical expense they stated that BWC had made an operational policy change that would increase its electrical usage.

64. The following quote from the Applicant's brief, filed in support of its application, outlines the policy in effect during the test year and the policy change implemented which, in the Applicant's opinion, will cause a permanent increase in electrical expense:

> .The evidence shows that in the test year, and in the year before, the company modified its electrical usage and pumping practices from what it had been in the past by reducing the amount of pumping occurring in the winter while hoping to refill reservoirs with spring run off. This worked in 1984, but did not work in 1985. Consequently the company reverted to the old policy of pumping to insure that reservoirs are filled by June 1 in order to guarantee a water supply through the entire summer...During 1984 and 1985 BWC's operational policy resulted in a reduced winter pumping schedule for refilling reservoirs. The quote also indicates that in years prior to 1984 BWC pumped during the winter to insure that reservoirs were full prior to June 1 of each year.

65. The Commission's examination of schedule 1 causes the Commission to question the Applicant's contention that a permanent increase in electrical expense will result from the operational policy change that calls for pumping during the winter months to fill reservoirs. During 1982 and 1983, BWC's operational policy included pumping during the winter months to refill reservoirs, but the total pumped water and total kilowatt hours of usage for those two years are significantly below the level experienced in 1985 and the proforma level projected by the Applicant.

66. The historical data total kilowatt hours of usage from the years 1982 and 1983, when BWC was pumping during the winter to fill reservoirs, does not support the Applicant's assertion that

increased electrical expense will result because of its operational policy change. The Commission is of the opinion that the proforma increase in electrical usage and expense is more directly attributable to the effects of the 1985 drought.

67. Answers to questions about proforma electrical usage asked to BWC witnesses revealed that the major contributing factor toward the increase was the need to pump water from the Big Hole to the Basin Creek Reservoir to refill the reservoir to capacity. On direct examination, BWC witness, Mike Patterson, indicated that the following levels, expressed as a percentage of full, were experienced at the Basin Creek Reservoir on June 1 of each year:

1975 through 1981 - 100.0%

1982	93.0%
1983	71.7%
1984	100.0%
1985	60.2%
1996	69.4%

68. The levels in the reservoir as of June 1, 1985 and 1986, are down significantly from historical levels, with the exception of 1983. The significant decrease in the level indicated for June 1, 1985, is attributable to BWC relying totally on the spring runoff and rains to recharge the reservoir. The spring runoff and rains were substantially below the norms in 1985, and this resulted in a failure of the reservoir to re-charge.

69. During 1985, the BWC service area experienced a drought that caused BWC to implement sprinkling restrictions. The reduced water level in the Basin Creek Reservoir was the major contributing factor toward implementing restrictions. The reduced

water level in the reservoir was the major factor because it is the main source of stored water on the system for meeting maximum daily demands.

70. Because the level of stored water in the Basin Creek Reservoir had been severely depleted as a result of the 1985 drought, BWC pumped water during the fall and winter of 1985-86 in an effort to refill the reservoir prior to the start of the 1986 irrigation season. These efforts resulted in the reservoir being 69.4% full on June 1, 1986, substantially below the historical level of 100%. Since the Basin Creek Reservoir was only 69.4% full on June 1, 1986, despite the Company's effort to refill it, it is reasonable to assume that the depleted water level is attributable to the reservoir draw down resulting from the drought conditions in 1985. Since the water level in the Basin Creek Reservoir is still low because of the drought, the water in an

Company still needs to pump increased amounts of effort to recharge the reservoir. The increased pumping to recharge the reservoir, is in the Commission's opinion, a result of drought conditions and not caused by the change in operational policy.

71. Since the increase in electrical expense is attributable to drought conditions, which are not an annual occurrence, the Commission finds that the proforma increase in electrical expense projected by the Applicant is not a recurring expense. Since the Applicant's proforma level of electrical expense includes amounts that are nonrecurring, the Commission finds that the Applicant's electrical expense should be normalized using the average usage for the 4 year period 1982 through 1985 to calculate the expense at current rates. In response to PSC staff data request number 9,

the Applicant calculated that normalized electrical expenses would be $348,033 that is accepted by the Commission.

72. It is known that the Applicant will incur proforma electrical expenses that are in excess of the normalized level because of its effort to recharge the Basin Creek Reservoir, but those expenses are nonrecurring in nature. The Commission finds that the Applicant should be allowed to recover the difference between normalized electrical expenses and the proforma level by amortizing the difference over a two (2) year period. The Applicant projected total proforma electrical expenses of $480,786. Subtracting the normalized level of $348,033 from this figure results in a difference of $132,753 to be amortized over two years. Based on this treatment for electrical expense, the Commission finds that the Applicant's proforma operating expenses should reduced be by $66,376.

73. At the hearing, the Applicant revised its performa operation and maintenance expenses increasing these expenses by $14,111. The Applicant indicated that this proposed increase in operation and maintenance expense reflected its average "bad debt expense" for the period 1983 through 1985. The Applicant also indicated that in prior cases before the Commission "bad debt expense" had not been included as an expense for rate-making purposes.

74. Under the Commission's general rate-making standards, utilities are allowed to reflect "bad debt expense" as a cost of doing business. Therefore, the Commission finds the Applicant's request to increase operation and maintenance expense by $14,111 to recover this expense to be acceptable.

75. On August 18, 1986, pursuant to ARM 38.2.4805, BWC filed an "application for rehearing" asking the Commission to reopen the proceeding for the purpose of taking additional evidence. All parties to this proceeding were served with a copy of the application and the 10 day period for the filing of suggestions in opposition to the application passed with no comments being filed.

76. In its application for rehearing, BWC stated that at the date of the hearing it "had no basis upon which to speculate as to the size" of any increase in liability insurance premiums. The following quotes from BWC's "application for rehearing" state why it had no knowledge regarding the magnitude of any increase in premiums and BWC's reasons for asserting that this increase should be considered subsequent to the close of the hearing in this Docket:

When the company was owned by Anaconda Minerals Division of ARCO, it was self-insured. Following its sale the present owner provided insurance through United States Fidelity and Guaranty Company. After obtaining the insurance, representatives of the carrier conducted a thorough review of the company's operations for underwriting purposes. That review was not completed until June 30, 1986, and the bill for the premium was not delivered until August 7, 1986.

> The increase is $66,521.00 which is a significant increase. It is essential for the company to obtain liability coverage, otherwise a Judgement against the company could totally destroy the company's net worth. Such a result could

trigger a Chapter 11 Bankruptcy. The expense is a normal and necessary operating expense which is routinely compensated in rate making.

77. The Commission finds that BWC's application for rehearing establishes that conditions have so changed as to require the reopening of this proceeding to take additional evidence. Additional evidence is limited to the issue of the increase in liability insurance expense.

78. The Applicant stated in a letter to the Commission that its application to reopen the proceeding was not a request to increase the annual revenues above the level requested in its original application. The Applicant wrote "It is the company's desire that the requested adjustment on the insurance premium be considered in lieu of other adjustments either stipulated to between the company and the Consumer Counsel or otherwise made by the Commission in its decision." Since there was no modification to the Applicant's requested annual increase in revenue beyond that which had already been noticed, no further public notice was issued.

79. The Applicant in the application for rehearing states that the amount of liability expense included in the test year totals $25,535. The premium received by the Applicant or August 7, 1986, totaled $91,056, therefore, the Applicant has experienced an annual increase in this expense totaling $66,521.

80. The Applicant proposes that the $66,521 increase in liability expense be allocated between its Butte and Anaconda Divisions because the increase represents a company total. The Applicant

proposes that the increase amount be allocated based upon the proportion of plant in the two divisions. Using this allocation 93.75% of the increase is attributed to the Butte Division representing an annual expense increase of $61,426.

81. Based on the preceding Findings of Fact, the Commission finds the Applicant's request to include the increase in liability insurance as a proforma adjustment increasing its operating expenses to be reasonable. The Commission further finds that the proforma expenses of the Butte Division should be increased by $61,426 as calculated by the Applicant.

82. Proforma operation and maintenance expenses under present rates are found to be $2,574,847, recognizing total proforma adjustments increasing expenses by $148,609.

DEPRECIATION EXPENSE

83. The test period depreciation expense is not a contested issue in this Docket. The Applicant proposed depreciation expense of $120,202, which is accepted by the Commission.

TAXES OTHER THAN INCOME

84. The Applicant proposed an expense for "Taxes Other Than Income" of $204,653. Included in "Taxes Other Than Income' is $2,893 for Montana Consumer Counsel tax calculated at the rate of $1.00 per $1,000 of gross revenue. Subsequent to the filing of the Applicant's rate request, the Montana Department of Revenue determined that the Montana Consumer Counsel Tax rate should be decreased from $1.00 per $1,000 of gross revenue to $.30 per

$1,000 of gross revenue.

85. Applying the new tax rate to the $3,141,425 operating revenues recognized by the Commission results in a Montana Consumer Counsel tax liability of $942. Since the Applicant has a decreased tax liability for Montana Consumer Counsel tax, "Taxes Other Than Income" should be reduced by $1,951. The Commission finds "Taxes Other Than Income" to be $202,702.

RATE BASE

86. The Applicant proposed an average original cost depreciated rate base of $3,327,990.

87. In his pre-filed testimony, the Montana Consumer Counsel's witness proposed three adjustments to the Applicant's average original cost depreciated rate base. A1l three adjustments proposed by the MCC's witness decreased the Applicant's claimed rate base. The proposed adjustments to rate base included a decrease in the Applicant's cash working capital, reflection of accumulated deferred federal income taxes and reflection of the unamortized balance on Gain on Disposition of Utility Property.

88. The first adjustment proposed by the MCC's witness was a reduction in the Applicant's cash working capital. In his pre-filed testimony and on direct examination, MCC's witness testified that BWC used an incorrect rate in determining the cash working capital requirement for unmetered consumers paying 15 days after service is provided. He contended that the correct rate for determining the cash working capital for this category of consumers was 4.2% not the 12.5% used by the Applicant. On

cross-examination, the Applicant did not challenge the contention that 4.2% was the correct rate for unmetered consumers paying 15 days after service is provided.

89. The Commission, based upon the direct testimony of the MCC's witness and the Applicant's apparent acceptance of the rate, finds the appropriate rate for determining cash working capital for unmetered consumers paying 15 days after service is provided to be 4.2%.

90. On cross-examination, the Commission staff asked Mr. Buckley why he had proposed an adjustment to the rate determining the cash working capital requirement for unmetered consumers paying 15 days after service is provided and not for metered consumers paying 15 days after service is provided. Mr. Buckley indicated that not proposing the adjustment for metered consumers was an oversight and that the same rationale used in determining the rate for unmetered consumers paying 15 days after service is provided would be appropriate for the metered consumers.

91. The Commission has already found the 4.2% rate appropriate for determining the cash working capital requirement for unmetered consumers paying 15 days after service is provided. It must also find that the 4.2% rate is appropriate for metered consumers because the same rationale applies to both customer categories.

92. Based on the preceding Findings of Fact, the Commission finds that the Applicant's cash working capital allowance should be reduced by $110,046.

93. The second adjustment proposed by the MCC's witness, which reduced rate base, was the inclusion of Accumulated Deferred Federal Income Taxes in the rate base calculation. In his prefiled testimony, Mr. Buckley states "Since these monies are non-investor supplied, they should be treated as cost-free and used to reduce rate base." The Applicant agreed with Mr. Buckley that these monies were non-investor supplied and should be used to reduce rate base.

94. Since the monies in question were ratepayer provided, the Commission finds that the Applicant's rate base should be reduced by the average projected amount $5,640.

95. In a previous section of this order, the Commission found that the gain on the sale of land should be flowed through to the ratepayer. In his last adjustment to rate base, the MCC's witness proposes that the unamortized balance of this gain be used to reduce rate base. As his rationale for this adjustment, the witness states "Like the accumulated deferred federal income tax monies, these dollars are non-investor supplied and are likewise, cost-free." The Commission agrees with this rationale and finds that the unamortized balance of the gain should be used to reduce rate base.

96. The Commission found that the Applicant realized a gain of $189,509 on the sale of the land and that the gain should be flowed through to the ratepayer over a two-year period. Since the Applicant will be amortizing the gain over a two-year period, the unamortized balance available to reduce rate base is $94,754. The Commission finds that the Applicant's rate base should be reduced by $94,754, the amount of the unamortized balance.

97. Based upon the preceding Findings of Fact, the Commission finds the Applicant's original cost depreciated rate base should be $3,117,550.

INCOME TAXES

98. The income tax issue in this docket is how should the net operating losses (NOLs) that could be available to reduce taxable income be treated for ratemaking purposes. In prior Orders, specifically, Butte Water Company, Order No. 4699a, Docket No. 6801 and Mountain Water Company, Order No. 5139a & 5139b, Docket No. 84.9.59, the Commission found that NOLs should be used to compute income tax expense allowed for ratemaking purposes. In Order 5139a, the Commission noted that City of Helena v Montana Department of Public Service Regulation, Mont. , 634 P.2d 192 (1981) prohibits the Commission from setting rates that allow a utility to recover past operating losses. By ignoring the NOLs in its ratemaking review, the Commission allows the investor indirect recovery of utility operating losses. In Order No. 5139a, the Commission found "that the net operating loss carryforwards available to offset the income tax obligation should be recognized in calculating the Applicant's income tax liability." Order 5139a, page 11, FoF 32. BWC argues that the Commission should deviate from its past ratemaking treatment of NOLs, but this Commission disagrees.

99. BWC incurred tax net operating losses during the period 1974 through 1985 totaling $3,376,243 (late-filed exhibit No.3).

Applicant's rationale for ignoring the NOLs in calculating the tax expense is: one, the NOLs were caused, in part, by interest on inter-company borrowings; two, the losses did not actually result in a tax benefit to ARCO because of inter-company eliminations required by the Internal Revenue Service; and, three, ARCO used all of BWC's NOLs to offset income tax liabilities of profitable enterprises on a consolidated return, therefore, no NOL's are actually available to offset income tax expense of BWC (see Applicant's Brief Pages 8-10).

100. The Commission does not find any of these arguments persuasive reasons for deviating from its prior orders. From 1974 through 1981 BWC sustained total net operating losses of $2,257,802. These losses were not caused by interest on inter-company borrowings or eliminated on the consolidated tax returns; interest payments to ARCO did not start until 1982. Any interest expense during this time frame (74-81) was paid to a third party lender, Crocker National Bank (see response to staff data request No.20). Since the interest expense was paid to a third party during this time, no intercompany elimination occurred and a contention that the equity investor received no tax benefit from the net operating loss would be incorrect.

101. The Commission has seriously considered Applicant's contention that NOLs should be ignored in calculating income tax expense for ratemaking purposes because no NOLs are actually available to reduce taxable income. However, no NOLs are available to BWC for tax reporting purposes because ARCO elected to use BWC's net operating losses to offset taxable income of other profitable enterprises. BWC as well as the BWC ratepayer would have benefited from these NOLs if they were available.

Nothing prevented BWC from retaining the NOLs. It would be inequitable to the ratepayer to deny it the benefit of a tax savings that BWC could have retained but chose not to.

102. Viewed on a "stand alone" basis BWC, generated NOLs that could be used to reduce taxable income. Since BWC has not used the NOLs, in the Commission's view, they are still available for ratemaking purposes and should be used to determine BWC's tax expense for ratemaking purposes. Any tax-benefit accruing to a regulated utility must remain with the utility until such time as it can be used by the utility. To do otherwise would wrongfully disallow the ratepayer from realizing the effects of such tax benefits.

103. Dennis Washington, the sole equity investor, acquired 100% of the outstanding shares of BWC stock from ARCO on December 18, 1985. The Applicant in its brief argued:

> …...If the net operating losses that are not present are nevertheless used to reduce that expense, it will be to the detriment of an investor whose management practices did not generate the net operating losses.

The Commission disagrees with the above quote from the Applicant's brief which asserts that the Commission's ratemaking practice of reflecting NOL's will harm the current equity investor. The Commission's practice of reflecting NOL's as an offset to income taxes in ratemaking is a matter of public record and has been used in previous decisions relating specifically to BWC. The time for a prospective equity investor to consider the Commission's ratemaking treatment of various items when acquiring an equity interest in a regulated utility , is prior to the acquisition of the equity interest. The cost of acquiring the equity interest would reflect ratemaking treatments that work to the benefit or detriment of the prospective investor. If, in the purchase price, the prospective equity investor fails to recognize a ratemaking treatment that is detrimental to the equity holder, any harm that befalls the equity investor is not the fault of regulation, but the failure of the investor to exercise the reasonable business practice of investigation before investing.

104. The Commission, based on Findings of Fact in this section, finds that the Applicant for ratemaking purposes has sufficient NOL's available to offset any income tax obligation.

105. Based upon the preceding Findings of Fact, the Commission finds BWC's test period operating income to be $243,674, calculated as follows:

Operating Revenue	$3,141425
Operating Deductions	2,897,751
Operating Income	$ 243,674

REVENUE REQUIREMENT

Rate Base	$3,117.550
Rate of Return	12.38%
Return Requirement	$ 385.953
Adjusted Balance Available for Return	243,674
Return Deficiency	142,279
Revenue Deficiency	142.322
MCC Tax at .003%	43

Income Available for Return $ 142,279

106. In order to produce a return of 12.38% on the Applicant's average original cost depreciated rate base, the Applicant will require additional annual revenues in the amount of $142,322 from its Butte, Montana, water utility.

RATE DESIGN

107. The Applicant proposes to continue the current water rate structure and generate the increased revenue determined appropriate in this order by increasing rates and charges for all water services on a uniform percentage basis. The rate design proposed by the Applicant appears to equitably spread the increase among the various customer categories. Therefore, the Commission accepts the Applicant's proposed rate design in this Docket.

108. The last time the Applicant presented a fully allocated cost of service study to this Commission was in 1980. Since that date, the Applicant has increased rates five times, including this proceeding. Each time the Applicant has increased rates it has increased them by applying a uniform percentage to all rates and charges contained in its tariff. The continual application of a uniform percentage increase to rates and charges to generate increased revenues has the possible effect of skewing the rate structure and causing customer classifications to contribute revenues in excess of the cost of providing service. The Applicant should examine its cost of providing service to the various customer classifications to insure that the rate

structure is generating revenues that are comparable to the cost of providing service to the various customer classifications.

SERVICE

109. Fifteen public witnesses testified at the public hearing; a majority of these witnesses expressed concerns regarding the Applicant's provision of water service. These consumers testified regarding the following service related problems with the system: low pressure, sprinkling restrictions, sediment and debris in the water, clogging of sand traps and damage to inside facilities resulting from sediment and debris in the water.

110. Under the Commission's "General Rules for Privately Owned Water Utilities", a water utility has the ability to implement lawn sprinkling restrictions when necessary. The determination regarding the need to implement lawn sprinkling restrictions and the degree of restriction is left to the discretion of the utility.

111. During the summers of 1985 and 1986, BWC had implemented water use restrictions. The restrictions implemented allowed consumers to use their hoses on alternate days during specified hours. The majority of consumers understood the need for implementing water use restrictions during the summer of 1985 when temperatures and precipitation were above and below normal, respectively. Due to the above normal temperatures, water demand was up when storage in the reservoirs was down, and this necessitated the implementation of water restrictions to insure an adequate supply of water was available for domestic use during the high demand period.

112. The weather conditions in 1986 up to the date of the hearing, were not as severe as those experienced during 1985, and some consumers expressed dismay over BWC's implementation of water use restrictions for the summer of 1986. During the hearing, the Commission directed questions to various BWC witnesses to ascertain the Applicant's reasons for implementing water use restrictions in 1986.

113. The Applicant's witnesses stated that because of the drought conditions in 1985 the level of stored water in its reservoirs was severely depleted at the end of the 85 irrigation season. In an attempt to restore the levels of stored water in its reservoirs, the Applicant pumped water from the Big Hole to the Basin Creek Reservoir which is its main source of stored water on the system. This effort resulted in the reservoir being 69.4% full on June 1, 1986. This is substantially below its normal level of 100% for this date. The witnesses stated that this reduced level of stored water was the major factor contributing to the Applicant's decision to implement water use restrictions.

114. Given the current ability of the BWC to deliver water to the City of Butte during periods of high demand, the Commission can understand why the depleted level of stored water in the Basin Creek Reservoir would cause the Company to implement water use restrictions. During periods of high demand, BWC does not have the ability to recharge its stored water; therefore, if the spring runoff, rains and its pumping of water are insufficient to recharge the reservoir before the start of the irrigation season, a water shortage is unavoidable.

115. Some of the consumers testifying at the hearing stated that they were receiving inadequate service because of debris and sediment in the distribution system that caused their sand traps to clog or damage to their inside facilities. Some of the consumers who testified about this problem indicated that in their opinion the problem was worse this year than it had been the last few.

116. When BWC witnesses were questioned regarding the increase in the incidence of debris and sediment in the water of consumers, they indicated that the increase was probably due to the utility's decision not to flush lines this last spring. The witnesses indicated that BWC had decided not to flush its lines this year because the depleted level of stored water was going to necessitate the implementation of sprinkling restrictions. They indicated that one of the reasons the decision not to flush was made was to avoid a public outcry that the Company was wasting water during a time when the Company had imposed sprinkling use restrictions against consumers.

117. The flushing of water lines is a method used by water companies to purge accumulated debris and sediment from the distribution system. Generally, a water company does this flushing early in the spring in an effort to insure improved water qualities during the summer irrigation season. If flushing of the mains is not done, the increased summer flows cause these accumulations to become suspended in the water deteriorating water quality.

118. The Commission questions the prudence of BWC's decision not to flush its lines given the apparent deterioration in water

quality and damage caused to the inside facilities of consumers. The Commission recommends that BWC make every effort to flush its lines to insure an improved quality of water and to avoid the possible expense of making repairs to consumer facilities that are damaged because of the introduction of debris and sediment.

ll9. A number of consumers testified during the hearing that they were experiencing inadequate pressure during the irrigation season. Several of these consumers indicated that they were unable to operate more than one water tap at a time due to the inadequate pressure.

120. The Applicant's witnesses indicated that they were aware of pressure problems being experience on the system. These witnesses stated that there were a number of reasons why consumers in certain locations within the service area were receiving inadequate pressures during the irrigation season. Some of the reasons presented were: some of the distribution mains were of inadequate size to accommodate the demand; some of the service locations are on the same approximate level as the reservoirs that provide the pressure on a gravity flow basis; some of the distribution system needs to be looped to provide adequate flows; some consumers have deteriorated service lines which restrict flows and are the responsibility of the consumer to replace.

121. The BWC witnesses stated that the areas experiencing inadequate pressures were under investigation by the Company and that it was BWC's intention to make improvements rectifying the problem. The Commission would encourage BWC to make the repairs to the distribution system, improving water pressure as soon as possible.

122. When consumers are receiving inadequate service and encountering service problems, such as those outlined in this section, it is within the Commission's power to authorize reduced rates for those consumers receiving the inadequate service. Since the Applicant has represented that it is aware of the problems and is examining possible improvements to the system to rectify the problems, the Commission will not in this Docket exercise its authority to implement reduced rates. But the Commission would caution the Applicant that if consumers
continue to experience inadequate service, it will consider exercising its authority and order the implementation of reduced rates .

DISCUSSION

123. BWC, during the course of this proceeding, made representations indicating that portions of its water utility plant were badly deteriorated. It further indicated that the badly deteriorated condition of its facilities was contributing to operating problems and causing unwarranted operation and maintenance expenses to be incurred.
124. The Applicant's witnesses testified that some of the transmission lines transporting water from the Big Hole and Basin Creek Reservoir were in such a state of disrepair that BWC was experiencing a line loss of 50 to 60 percent on these lines.

Based on this magnitude of line loss, the Applicant calculated that Big Hole lines #1 and #2 were costing the consumer $127,836 per year for water that was leaking into the ground providing no benefit to the consumer.

125. The witnesses also testified that the deteriorated condition of Big Hole lines #1 and #2 was causing operating problems for the utility. BWC represented that due to the condition of the lines, it was unable to operate this portion of the system at design capacity. The transmission facilities from the Big Hole should be able to deliver 14 million gallons per day (mgd) to the system during periods of high demand. The Applicant indicated that due to the condition of its lines it was limited to transporting 3.6 mgd from this source and stated that its attempts to transport in excess of that amount resulted in line failures causing the loss of all supply from this source until repairs are made to the lines.

126. The Applicant has a third transmission line, line #3, running from the Big Hole to its distribution system that the Commission understands is in a reasonable state of repair and can deliver 14 mgd. During periods of high demand when the Company needs to deliver larger quantities of water to its system, it cannot use this line to capacity because it is connected to other lines which the Applicant states are badly deteriorated. The Applicant stated the increased pressure from operating this line at capacity causes other badly deteriorated lines to have blowouts.

127. The Applicant cannot use this third line during periods of high turbidity either because the water flowing through this line cannot be treated. When this line was constructed during the late 1970's, the water company failed to construct a holding reservoir

which would allow the water to be treated. Absent this treatment ability, the line cannot be used during periods of high turbidity because the water quality violates the clean drinking water standards.

128. The above discussion has been limited to representations made by the Applicant regarding some of is operating problems and the condition of its existing facilities. The Commission has not fully investigated these representations and makes no findings on the condition of the facilities. If the condition of the facilities is as outlined, then clearly there exists a need for BWC to formulate a capital improvement program to discharge its obligation of maintaining reasonable adequate facilities.

129. The Commission is aware that BWC is considering various solutions to the transmission problems that it asserts exist. On September 30, 1986, BWC filed a Petition for a Declaratory Ruling stating that it is "contemplating the acquisition of a water system commonly known as the Silver Lake System to provide water to its Butte and Anaconda, Montana customers." The Silver Lake system is owned by Dennis Washington, who is also the owner of BWC. As the Montana Supreme Court noted in MDU v Bollinger 632 P2d 1086, 1089 (l981) and MPC v Dept. of Pub. Serv. 665 P2d 1121, (1983), the Commission must scrutinize more intensely transactions between a utility and its subsidiary or shareholder. If in a future rate case BWC seeks to include in rate base the cost of upgrading its transmission system, it should be aware that the Commission must determine if the property acquired is actually used and useful for the convenience of the public. The Commission will require substantial, credible evidence that BWC considered all reasonable alternatives and chose the alternative

in the best interest of BWC and its ratepayers.

CONCLUSIONS OF LAW

1. The Applicant, Butte Water Company, is a public utility as defined in Section 69-3-101, MCA. The Montana Public Service Commission properly exercises jurisdiction over Applicant's rates and service pursuant to Section 69-3-102, MCA.

2. The Commission has provided adequate public notice and an opportunity to be heard as required by Section 69-3-303, MCA, and Title 2, Chapter 4, MCA.

3. The rates and rate structure approved in this order are just and reasonable. Sections 69-3-201, and 69-3-330, MCA.

ORDER

NOW, THEREFORE, IT IS ORDERED THAT:

1. Butte water Company shall file rate schedules which reflect an increase in annual revenues of $142.322 for its Butte, Montana service areas. The increased revenues shall be generated by increasing rates and charges to all customer classifications on a uniform percentage basis.

2. The rates approved herein shall not become effective until approved by the Commission.

3. The revenues approved herein are in lieu of, and not in addition

to, those approved in Order No. 5194.

4. DONE IN OPEN SESSION at Helena, Montana, this 1st day of October, 1986, by a 3 - 0 vote.

BY ORDER OF THE MONTANA PUBLIC SERVICE COMMISSION

JOHN B. DRISCOLL, Commissioner

HOWARD L. ELLIS, Commissioner

TOM MONAHAN, Commissioner

ATTEST:

Ann Purcell
Acting Secretary

(SEAL)

NOTE: Any interested party may request the Commission to reconsider this decision. A motion to reconsider must be filed within ten (10) days. See 38.2.4806, ARM.